

April 30, 1999

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

RECEIVED  
APR 30 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Ex Parte Notification  
Direct Access to the INTELSAT System  
IB Docket No. 98-122; File No. 60-SAT-ISP-92

Dear Ms. Salas:

At a meeting between COMSAT Corporation ("COMSAT") and the International Bureau on April 21, in the above-captioned proceeding (see Ex Parte Notice filed April 22, 1999), the question of COMSAT's continued interest in INTELSAT Utilization Charges (IUCs) under a Level 3 direct access regime was raised. Given what appeared to be some confusion during the discussion, I thought a written explanation might help clarify the matter.

Under a Level 3 direct access regime, COMSAT will remain responsible for making investments in INTELSAT plant and facilities in an amount equal to total U.S. utilization, including the utilization of U.S. direct access users. That is, COMSAT will be required to invest its shareholders' capital based on the usage of others, including our primary U.S. carrier competitors.

The IUC, in addition to covering INTELSAT's ongoing operating expenses, includes a component which provides Signatory-owners with the opportunity to earn a pre-tax return on their investment. In 1998, that pre-tax return was 15 percent for COMSAT (this equates to an after-tax return on equity of approximately 9 percent).

Level 3 direct access enables U.S. carriers to negotiate space segment contracts directly with INTELSAT. As in any contract negotiation, the U.S. carriers -- which will become INTELSAT's largest customers with significant bargaining power -- will seek the lowest possible IUC charges. COMSAT, in turn, would be impacted because the outcome of those negotiations would affect the return COMSAT obtains for its investment under the IUC mechanism.

Under the INTELSAT Agreement, IUC charges must be approved by the Board of Governors. But the other Signatories at the Board of Governors are mostly the U.S. carriers' PTT foreign correspondents. They are likely to agree to more favorable IUC rates because it would lower their space segment costs as well. That would offset any lower return they may receive under the IUC mechanism, so the economic impact is essentially neutral for other Signatories (which hold vastly lower investment shares than COMSAT in any event).

The only Signatory directly harmed under Level 3 direct access would be COMSAT, which does not employ INTELSAT space segment to provide international telecommunications services to end users. Rather, COMSAT's primary business is to offer access to its facilities on a non-discriminatory basis to U.S. carriers and others. Thus, as the *1998 Direct Access Study* submitted by COMSAT in this proceeding concluded: "Level 3 direct access would create the opportunity for U.S. carriers to realize substantial gains at COMSAT's expense with little harm to foreign Signatories". *Id.* at 13. *See also*, Statement of Administration Position, Ambassador Vonya B. McCann, March 25, 1999 ("If COMSAT customers and direct access users (some of whom compete with COMSAT) paid only the IUC under a direct access regime, the implicit subsidy from COMSAT to these customers/direct access users would distort competition"). In short, COMSAT's continued interest in any Level 3 IUC charges is directly related to our obligation to ensure that we obtain a reasonable return on the investment that COMSAT's shareholders are obligated to contribute to INTELSAT, based on the usage that would be generated by direct access customers/competitors.

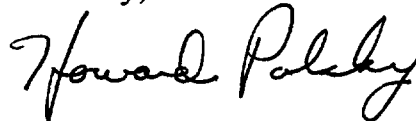
For similar reasons, the FCC would also have to be concerned on an on-going basis with the amount of Level 3 IUC charges, including the return component. COMSAT's comments demonstrated that, standing alone, the after-tax INTELSAT return on an average net asset basis would not have been compensatory. We further demonstrated that, if Level 3 were implemented, a surcharge of at least 28 percent would be necessary just to allow COMSAT to attain the 12.48 percent after-tax return on rate base previously allowed by the FCC until last year.

Obviously, if the major U.S. carriers negotiate space segment contracts with INTELSAT that function to deprive COMSAT of a reasonable return on the investment obligation created by their utilization, the Commission would have to revisit the surcharge issue at least on an annual basis. That is just one reason why attempting to superimpose direct access on the current INTELSAT structure would not be a prudent use of Commission resources, especially for a temporary regime. Rather, COMSAT respectfully submits that the FCC should seek to devote its

resources to address issues related to the rapid and pro-competitive privatization of INTELSAT that is currently underway. Full privatization, not new temporary access regimes to the existing intergovernmental organization, will provide a genuine economic solution to the Commission's twin goals of promoting satellite competition and consumer welfare.

I hope this helps to clarify this aspect of our discussion. If you have any further questions, please do not hesitate to call.

Sincerely,

A handwritten signature in cursive script, reading "Howard D. Polsky".

Howard D. Polsky

cc: James Ball, Associate Chief, Policy  
Douglas Webbink, Chief Economist